

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement • • Statements of Economic Interest
(916) 322-5662 322-5660 322-5901 322-6441 322-6444

February 8, 1984

David Nawi
General Counsel
Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

Re: Advice Letter No. A-84-013

Dear Mr. Nawi:

Thank you for your request for advice on the conflict of interest provisions of the Political Reform Act. The facts, as stated in your letter, are that the Motor Vehicle Manufacturers Association ("MVMA") is a trade association consisting of companies or their affiliates which manufacture motor vehicles. The nine members are: American Motors Corporation, Chrysler, M.A.N. Truck and Bus Company, PACCAR, Inc., Volkswagen of America, Volvo of North America, Ford Motor Company, General Motors and International Harvester. The purpose of the MVMA is to further the interests of its members.

MVMA has suggested that it invite one or more of the Air Resources Board members and staff to an informational meeting in Detroit. The MVMA will pay all of the expenses, including transportation, lodging and meals. The expenses will be paid from the MVMA general fund, rather than from a special assessment on some or all of its members. The value of the items received will exceed \$250 for each person making the trip.

The Air Resources Board makes various regulatory decisions which affect the financial interests of motor vehicle manufacturers.^{1/} It is unlikely that the Board will make any

^{1/} For example, the Board makes decisions concerning vehicular emission standards and procedures which result in the expenditure of substantial sums of money by affected manufacturers.

David Naw1
February 8, 1984
Page 2

decisions that will affect the MVMA. Your question is, if the MVMA provides certain Board members and staff with the trip to Detroit, who will be considered to be the source of this gift for the purposes of the Act's disclosure and disqualification requirements.

DISCUSSION

Government Code Section 87100^{2/} prohibits a public official from making, or participating in the making of, a governmental decision in which he knows or has reason to know he has a financial interest. An official has a "financial interest" in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect on:

* * *

(c) Any source of income . . . aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(Section 87103(c).)

Each person who accepts the trip to Detroit will be receiving a gift worth more than \$250. Gifts are considered to be "income" under the Act. (Section 82030(a).) Under the staff's current policy, the source of this income will be considered to be MVMA, not the individual members of MVMA. This policy developed because, in the past, the factual situations that the staff has been confronted with have always supported treating associations as separate from their members. At this time, the staff feels obligated to continue to follow this policy. However, the staff feels that, in a situation such as you have presented, where an association has only a few members who may be materially affected by governmental decision making, there may be justification for treating both the association and the members as sources of income. The staff plans to explore the possibility of a regulation on this question, and we will contact you if we decide to propose a regulation on this topic.

^{2/} Hereinafter all statutory references are to the Government Code.

David Nawi
February 8, 1984
Page 3

Each Board and staff member receiving the trip must report his or her share of the gift from the MVMA on his or her Statement of Economic Interests.

If I can be of any further help to you, please feel free to contact me at (916) 322-5901.

Very truly yours,

Janis Shank McLean
Janis Shank McLean
Counsel
Legal Division

JSM:plh